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Administrative Appeal Decision - Mota, Jose (2020-02-04)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Mota, Jose

Facility: Otisville CF

NYSID: [REDACTED]

**Appeal
Control No.:** 07-124-19 BMT

DIN: 15-A-2554

Appearances: Jose Mota 15A2554
Otisville Correctional Facility
P.O. Box 8
Otisville, New York 10963

Decision appealed: June 2019 decision, denying discretionary release and imposing a hold to parole eligibility date.


Board Member(s)
who participated: Drake, Alexander, Davis

Papers considered: Appellant's Letter-brief received September 10, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.


Final Determination: The undersigned determine that the decision appealed is hereby:

 ☒ Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to _____

Commissioner

 ☒ Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to _____

Commissioner

 ☒ Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to _____

Commissioner

If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 2/4/2020 AH.

Distribution: Appeals Unit – Appellant - Appellant's Counsel - Inst. Parole File - Central File
P-2002(B) (11/2018)

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Mota, Jose

DIN: 15-A-2554

Facility: Otisville CF

AC No.: 07-124-19 BMT

Findings: (Page 1 of 1)

Appellant challenges the June 2019 determination of the Board, denying release and imposing a to parole eligibility hold. Appellant's instant offense involved him participating in a major multi-state narcotics trafficking organization. At the time of his arrest, he was in possession of five kilograms of heroin and 41 pounds of methamphetamine. Appellant raises many issues. However, for the reason mentioned below, none of the issues raised will be addressed.

The inmate's challenge to the Merit Board decision is moot because he has since this interview reappeared before the Board at which time he was granted an open date. Matter of Brisbane v. Annucci, 159 A.D.3d 1579, 70 N.Y.S.3d 428 (4th Dept. 2018); Matter of Sanchez v. Stanford, 152 A.D.3d 854, 855, 54 N.Y.S.3d 890, 890 (3d Dept. 2017); Matter of Chaney v. Stanford, 137 A.D.3d 1396, 1396, 26 N.Y.S.3d 487, 487 (3d Dept. 2016). By reappearing, the inmate thereby receives all the relief to which he was entitled. Matter of Isaac v. Stanford, 128 A.D.3d 1245, 8 N.Y.S.3d 609 (3d Dept. 2015); Matter of Brown v. New York State Bd. of Parole, 72 A.D.3d 1375, 898 N.Y.S.2d 536 (3d Dept. 2010).

An inmate being granted an open release date will result in a dismissal of the case on mootness grounds. Wingate v New York State Division of Parole, 50 A.D.3d 1336, 854 N.Y.S.2d 685 (3d Dept. 2008); Phillips v Lemons, 79 A.D.3d 1555, 912 N.Y.S.2d 920 (3d Dept. 2010); Church v Evans, 98 A.D.3d 1152, 950 N.Y.S.2d 606 (3d Dept. 2012); Clark v Evans, 113 A.D.3d 973, 978 N.Y.S.2d 913 (3d Dept. 2014); Irving v Evans, 120 A.D.3d 1502, 992 N.Y.S.2d 452 (3d Dept. 2014); Campos v Evans, 123 A.D.3d 1215, 996 N.Y.S.2d 551 (3d Dept. 2014); Chaney v Stanford, 137 A.D.3d 1396, 26 N.Y.S.3d 487 (3d Dept. 2016); Sanchez v Stanford, 152 A.D.3d 854, 54 N.Y.S.3d 890 (3d Dept. 2017). This rule applies even if the open date gets suspended. Hill v Annucci, 149 A.D.3d 1540, 51 N.Y.S.3d 450 (4th Dept. 2017).

Recommendation: Affirm.